

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

IN RE: JONEY W. RUSHING, JR.
BOBBISUE K. RUSHING

CASE NO. 15-51658 KMS
CHAPTER 13

OBJECTION TO SECURED CLAIM(S)

COME NOW the Debtor, Joney W. & Bobbisue K. Rushing, Jr., by and through undersigned Counsel, and moves the Court to determine the treatment of the following collateral for the purposes of plan confirmation and files this Objection to Secured Claims, setting forth the treatment to be provided to claim holders as follows, to-wit:

MORTGAGE CREDITORS & SERVICERS

Mortgage Creditors and Servicers shall undertake the following practices and procedures:

A. If the underlying indebtedness is paid current post-petition, then mortgage creditors & servicers shall not seek to recover late fees. No late fees shall be recovered or demanded for administrative delay, but shall be limited only to actual defaults, for example, when the debtor fails to remit the payment due to the Chapter 13 Trustee.

B. Payments made on the pre-petition/pre-confirmation arrearage claims shall be exclusively applied to the arrearage claim. Regular monthly mortgage payments that are paid post-confirmation are to be applied to the monthly installment due in the month that the payment was made to the Chapter 13 Trustee, or in the month made by the Debtor directly to the mortgage creditor.

C. Failure to comply with the Order Confirming Plan, which shall approve the foregoing terms, may subject the offending party to sanctions, including but not limited to, the disallowance of all or any part of the secured claim, actual and exemplary damages, costs, and attorneys fees.

D. Mortgage creditors & servicers shall comply with the provisions codified in II U.S.C. Section 524(i) and the Standing Order Regarding Chapter 13 Claims, Secured by a Security Interest in Debtor's Principal Residence dated September 20, 2011.

- 1) Martha Ford
1004 Memorial Blvd.
Picayune, MS 39466

Collateral:	Land @ 11 Oscar Smith Road Carriere, MS
Position:	1 st mortgage
Mortgage Bal:	\$30,000.00
Pre-petition arrearage:	\$-0-

Treatment: Debtors shall pay entire indebtedness to the mortgage creditor outside the bankruptcy plan. Debtor shall pay his regular ongoing monthly mortgage payment

commencing with the mortgage payment due October 2015, outside the bankruptcy plan.

VEHICLE(S) AND PERSONAL PROPERTY

- 1) Ally Financial
200 Renaissance Center
Detroit, MI 48243

Collateral:	PMSI VEHICLE 2007 Ford F250
Position:	1 st lien
Alleged Amount Owed:	\$19,057.00
Value:	\$11,377.50

Treatment: Pay the alleged value of \$11,377.50 plus 5% interest over the life of the Chapter 13 plan; or, in the event a timely filed and/or allowed Proof of claim is filed by or on behalf of this creditor evidencing a purchase-money security interest and that the vehicle loan was acquired less than 910 days before the petition filing, pay the amount owed as set forth in such claim plus 5% interest over the life of the Chapter 13 plan; or, in the event a timely filed and/or allowed Proof of Claim is filed by or on behalf of this creditor evidencing a purchase-money security interest and that the vehicle loan was acquired more than 910 days before the petition filing, then pay the value of \$11,377.50 plus 5% interest over the life of the plan unless the amount owed as set forth in such claim is less than the value of \$11,377.50.

- 2) Vanderbilt Mortgage
500 Alcoa Trail
Maryville, TN 37804

Collateral:	PMSI VEHICLE 2013 Clayton Mobilehome
Position:	1 st lien
Alleged Amount Owed:	\$77,109.00
Value:	\$53,410.00

Treatment: Pay the alleged value of \$53,410.00 plus 5% interest over the life of the Chapter 13 plan; or, in the event a timely filed and/or allowed Proof of claim is filed by or on behalf of this creditor evidencing a purchase-money security interest and that the vehicle loan was acquired less than 910 days before the petition filing, pay the amount owed as set forth in such claim plus 5% interest over the life of the Chapter 13 plan; or, in the event a timely filed and/or allowed Proof of Claim is filed by or on behalf of this creditor evidencing a purchase-money security interest and that the vehicle loan was acquired more than 910 days before the petition filing, then pay the value of \$53,410.00 plus 5% interest over the life

of the plan unless the amount owed as set forth in such claim is less than the value of \$53,410.00.

- 3) United consumer Financial Services
865 Bassett Road
Westlake, OH 44145

Collateral:	PMSI Kirby Vacuum cleaner
Position:	1 st lien
Alleged Amount Owed:	\$1600.00
Value:	\$5.00

Treatment: Pay the alleged value of \$5.00 plus 5% interest over the life of the Chapter 13 plan; or, in the event a timely filed and/or allowed Proof of claim is filed by or on behalf of this creditor evidencing a purchase-money security interest and that the vehicle loan was acquired less than 910 days before the petition filing, pay the amount owed as set forth in such claim plus 5% interest over the life of the Chapter 13 plan; or, in the event a timely filed and/or allowed Proof of Claim is filed by or on behalf of this creditor evidencing a purchase-money security interest and that the vehicle loan was acquired more than 910 days before the petition filing, then pay the value of \$5.00 plus 5% interest over the life of the plan unless the amount owed as set forth in such claim is less than the value of \$5.00.

- 4) American Credit Acceptance
961 E Main Street
Spartanburg, SC 29302

Collateral:	PMSI 2008 Chrysler Aspen
Position:	1 st lien
Alleged Amount Owed:	\$6103.00
Value:	\$6100.00

Treatment: To relinquish to creditor for full value.

- 5) Harrison Finance
P.O. Box 912
Picayune, MS 39466

Collateral:	Balance after foreclosure
Position:	1 st lien
Alleged Amount Owed:	\$23,114.00
Value:	\$-0-

Treatment: To be paid zero-Statute of limitations has expired.


- 6) Ford Credit
P. O. Box 542000
Omaha, NE 68154

Collateral:	PMSI 2013 Ford Explorer
Position:	1 st lien
Alleged Amount Owed:	\$23,382.00
Value:	\$16,280.00

Treatment: Pay the alleged value of \$16,280.00 plus 5% interest over the life of the Chapter 13 plan; or, in the event a timely filed and/or allowed Proof of claim is filed by or on behalf of this creditor evidencing a purchase-money security interest and that the vehicle loan was acquired less than 910 days before the petition filing, pay the amount owed as set forth in such claim plus 5% interest over the life of the Chapter 13 plan; or, in the event a timely filed and/or allowed Proof of Claim is filed by or on behalf of this creditor evidencing a purchase-money security interest and that the vehicle loan was acquired more than 910 days before the petition filing, then pay the value of \$16,280.00 plus 5% interest over the life of the plan unless the amount owed as set forth in such claim is less than the value of \$16,280.00.

WHEREFORE Debtors pray that in the event a timely filed and/or allowed Proof of Claim is filed by or on behalf of any of the abovementioned creditors evidencing an unsecured interest that said creditor be paid the same percentage distribution as all other unsecured creditors through the Chapter 13 plan and further pray(s) that either upon payment of the underlying debts determined under non-bankruptcy law or a discharge under Bankruptcy Code § 1328, all liens be cancelled and any and all title documents be promptly delivered to Debtor(s).

RESPECTFULLY SUBMITTED this the 14th day of October, 2015


James Clayton Gardner, Sr.

James Clayton Gardner, Sr. (4747)
3012 Canty Street
Pascagoula, MS 39567
(228) 762-6555

**CHAPTER 13 PLAN
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI**

Debtor: Joney W. Rushing, Jr. SSN: XXX-XX-7839
 Joint Debtor: Bobbiesue K. Rushing SSN: XXX-XX-0531
 Address: 11 Oscar Smith Road
Carriere, MS 39426

CASE NO. 15-51658
 Median Income: ☐ Above ☐ Below

THIS PLAN DOES NOT ALLOW CLAIMS. Creditors must file a proof of claim to be paid under any plan that may be confirmed. The treatment of ALL secured and priority debts must be provided for in this plan.

PAYMENT AND LENGTH OF PLAN

The plan period shall be for a period of 60 months, not to be less than 36 months for below median income debtor(s), or less than 60 months for above median income debtor(s).

- (A) Debtor shall pay \$ 1785.00 (☒ monthly, ☐ semi-monthly, ☐ weekly, or ☐ bi-weekly) to the chapter 13 trustee. Unless otherwise ordered by the Court, an Order directing payment shall be issued to Debtor's employer at the following address:
Blake International Rigs, LLC (985-274-2200)
P. O. Box 3834
Houma, LA 70361
- (B) Joint Debtor shall pay \$ _____ (☐ monthly, ☐ semi-monthly, ☐ weekly, or ☐ bi-weekly) to the chapter 13 trustee. Unless otherwise ordered by the Court, an Order directing payment shall be issued to Debtor's employer at the following address:

PRIORITY CREDITORS.

Filed claims which are not disallowed are to be paid in full or as ordered by the Court as follows:

Internal Revenue Service: \$ 0.00 at \$ 0.00 /month
 Mississippi Dept. of Revenue: \$ 4405.17 at \$ 73.42 /month
 Other/_____: \$ _____ at \$ _____ /month

DOMESTIC SUPPORT OBLIGATION. DUE TO: none

POST PETITION OBLIGATION: In the amount of \$ 0.00 per month beginning _____.
 To be paid ☐ direct, ☐ through payroll deduction, or ☐ through the plan.

PRE-PETITION ARREARAGE: In the total amount of \$ 0.00 through _____ which shall be paid in the amount of \$ _____ per month beginning _____.
 To be paid ☐ Direct, ☐ through payroll deduction, or ☐ through the plan.

HOME MORTGAGES. All claims secured by real property which are to be paid through the plan shall be scheduled below. Absent an objection by a party in interest, the plan will be amended consistent with the proof of claim filed herein, subject to the start date for the continuing monthly mortgage payment proposed herein.

Mtg pmts to <u>Martha Ford/Land</u>	Beginning <u>10/1/2015</u>	@ \$ <u>500.00</u>	<input type="checkbox"/> Plan <input checked="" type="checkbox"/> Direct
Mtg pmts to _____	Beginning _____	@ \$ _____	<input type="checkbox"/> Plan <input type="checkbox"/> Direct
Mtg pmts to _____	Beginning _____	@ \$ _____	<input type="checkbox"/> Plan <input type="checkbox"/> Direct

Mtg arrears to <u>Martha Ford/Land</u>	Through <u>9/1/2015</u>	\$ <u>0.00</u>	@ \$ <u>0.00</u> /mo
Mtg arrears to _____	Through _____	\$ _____	@ \$ _____ /mo
Mtg arrears to _____	Through _____	\$ _____	@ \$ _____ /mo

Debtor's Initials JWR

Joint Debtor's Initials BKR

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MORTGAGE CLAIMS TO BE PAID IN FULL OVER PLAN TERM:

Creditor: _____ Approx. amt. due: _____ Int. Rate: _____
 Property Address: _____ Are related taxes and/or insurance escrowed ☐ Yes ☐ No

Creditor: _____ Approx. amt. due: _____ Int. Rate: _____
 Property Address: _____ Are related taxes and/or insurance escrowed ☐ Yes ☐ No

NON-MORTGAGE SECURED CLAIMS. Creditors that have filed claims that are not disallowed are to retain lien(s) pursuant to 11 U.S.C. § 1325(a)(5)(B)(i)(I) until the payment of the debt determined as under non-bankruptcy law or discharge. Such creditors shall be paid as secured claimants the sum set out below or pursuant to other order of the Court. The portion of the claim not paid as secured shall be treated as a general unsecured claim.

CREDITOR'S NAME	COLLATERAL	910* CLM	APPROX. AMT. OWED	VALUE	INT. RATE	PAY VALUE OR AMT. OWED
<u>Ally Financial</u>	<u>2007 Ford F250</u>		<u>\$19,057.00</u>	<u>\$11,377.50</u>	<u>5%</u>	<u>\$11,377.50 +5%@\$215.22mt</u>
<u>Vanderbilt</u>	<u>2013 Clayton Mobilehome</u>		<u>\$77,109.00</u>	<u>\$53,410.00</u>	<u>5%</u>	<u>\$53,410.00 +5%@\$1010.34mt</u>
<u>Ford Credit</u>	<u>2013 Ford Explorer</u>		<u>\$23,382.00</u>	<u>\$16,280.00</u>	<u>5%</u>	<u>\$16,280.00+5%@\$307.96mt</u>
<u>United Consumer Finance</u>	<u>Kirby vacuum</u>		<u>\$1,600.00</u>	<u>\$5.00</u>	<u>5%</u>	<u>\$5.00 +5% @ \$0.09 mth</u>

* The column for "910 CLM" applies to both motor vehicles and "any other thing of value" as used in the "hanging paragraph" of 11 U.S.C. § 1325

SPECIAL CLAIMANTS including, but not limited to, co-signed debts, abandonment of collateral, direct payments by Debtor, etc. For all abandoned collateral Debtor will pay \$0.00 on the secured portion of the debt. Where the proposal is for payment, creditor must file a proof of claim to receive proposed payment.

CREDITOR'S NAME	COLLATERAL	APPROX. AMT. OWED	PROPOSED TREATMENT
<u>Harrison Finance</u>	<u>Bal. after foreclosure</u>	<u>\$23,114.00</u>	<u>To be pd zero-SOL exp.</u>
<u>American Credit Accept.</u>	<u>2008 Chrysler Aspen</u>	<u>\$6103.00</u>	<u>To relinquish to creditor for full value</u>

STUDENT LOANS which are not subject to discharge pursuant to 11 U.S.C. §§ 523(a)(8) and 1328(c) are as follows (such debts shall not be included in the general unsecured total):

CREDITOR'S NAME	APPROX. AMT. OWED	CONTRACTUAL MO. PMT.	PROPOSED TREATMENT

SPECIAL PROVISIONS which may apply to any or all payments to be paid through the plan, including, but not limited to, adequate protection payments:

GENERAL UNSECURED CLAIMS total approximately \$ 51,665.00. Such claims must be *timely filed* and not disallowed to receive payment as follows: 0 IN FULL (100%), 0 %(percent) MINIMUM, or a total distribution of \$, with the Trustee to determine the percentage distribution. *Those general unsecured claims not timely filed shall be paid nothing, absent order of the Court.*

Debtor's Initials JWR

Joint Debtor's Initials BKR

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Total attorney fee charged: \$ 3,200.00
 Attorney fee previously paid: \$ 690.00
 Attorney fee to be paid in plan: \$ 2,510.00

The payment of administrative costs and aforementioned attorney fees are to be paid pursuant to Court order and/or local rules.

Automobile Insurance Co/Agent

Safeway
Picayune, MS

Telephone/Fax: _____

Attorney for Debtor (Name/Address/Phone/Email)

James Clayton Gardner, Sr.
3012 Canty Street
Pascagoula, MS 39567

Telephone No. 228-762-6555
 Facsimile No. 228-762-6589
 Email address debbie@gardnerlawfirmpe.com

DATED: 10/9/15 _____ DEBTOR'S SIGNATURE

JOINT DEBTOR'S SIGNATURE

ATTORNEY'S SIGNATURE

